

STATE BOARD OF ACCOUNTS
302 West Washington Street
Room E418
INDIANAPOLIS, INDIANA 46204-2769

SPECIAL INVESTIGATION REPORT
OF

CLERK-TREASURER
TOWN OF KENNARD
HENRY COUNTY, INDIANA

August 3, 2012 to October 28, 2015



FILED
04/05/2016

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SCHEDULE OF OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Clerk-Treasurer	Karen Stanley (Vacant) Sharon Elliott	08-03-12 to 10-28-15 10-29-15 to 11-01-15 11-02-15 to 12-31-19
President of the Town Council	Benjamin J. Ryan (Vacant) Shannon Dickerson Jason Groce	01-01-12 to 07-03-14 07-04-14 to 08-06-14 08-07-14 to 12-31-14 01-01-15 to 12-31-16



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF THE TOWN OF KENNARD

We have conducted a special investigation of the records of the Clerk-Treasurer, Town of Kennard, for the period from August 3, 2012 to October 28, 2015. Our investigation was limited to records related to payment of compensation and related expenditures. The purpose of our investigation was to determine if the accountability for cash and other assets are satisfactory and that the transactions related thereto are in compliance with the laws and regulations of the State of Indiana. The results of our investigation are fully described in the Special Investigation Results and Comments and Summary of Charges as listed in the Table of Contents.

This report was forwarded to the Office of the Indiana Attorney General, the United States Attorney's Office, the Henry County Prosecutor, the Internal Revenue Service, and the Indiana Department of Revenue.

Any Official Response to the Special Investigation Results and Comments, incorporated within this report, was not verified for accuracy.

Paul D. Joyce
Paul D. Joyce, CPA
State Examiner

January 27, 2016

CLERK-TREASURER
TOWN OF KENNARD
SPECIAL INVESTIGATION RESULTS AND COMMENTS

SALARY OVERPAYMENTS

Karen Stanley, former Clerk-Treasurer, paid herself \$80,160 in excess of the salaries approved and appropriated by the Town Council for the years 2012, 2013, 2014 and 2015.

The following schedule details the amount of the salary overpayments:

	<u>Approved Salary</u>	<u>Actual Paid</u>	<u>Salary Overpayments</u>
2012	\$ 6,875	\$ 8,440	\$ 1,565
2013	16,500	41,470	24,970
2014	16,500	50,875	34,375
2015	<u>13,750</u>	<u>33,000</u>	<u>19,250</u>
Totals	<u>\$ 53,625</u>	<u>\$ 133,785</u>	<u>\$ 80,160</u>

In addition, the salary amounts paid to Karen Stanley, former Clerk-Treasurer, for the years 2012, 2013, 2014, and 2015 were not reported correctly to the Internal Revenue Service and Social Security Administration.

The following schedule details the amount of the salary reported by year:

	<u>Actual Amount Paid</u>	<u>W-2 Wages Reported</u>	<u>941 Wages Reported</u>
2012	\$ 8,440.00	\$ 8,250.00	\$ 8,250.00
2013	41,470.00	34,375.00	34,375.00
2014	50,875.00	31,125.00	38,500.00
2015	<u>33,000.00</u>	<u>33,000.00</u>	<u>30,232.32</u>
Totals	<u>\$ 133,785.00</u>	<u>\$ 106,750.00</u>	<u>\$ 111,357.32</u>

Indiana Code 36-5-3-2 states in part:

"(a) As used in this section, 'compensation' means the total of all money paid to an elected town officer for performing duties as a town officer, regardless of the source of funds from which the money is paid. (b) The town legislative body shall, by ordinance, fix the compensation of . . . the town clerk-treasurer . . ."

Funds misappropriated, diverted or unaccounted for through malfeasance, misfeasance, or non-feasance in office of any officer or employee may be the personal obligation of the responsible officer or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

CLERK-TREASURER
TOWN OF KENNARD
SPECIAL INVESTIGATION RESULTS AND COMMENTS
(Continued)

Political subdivisions are required to comply with all grant agreements, rules, regulations, bulletins, directives, letters, letter rulings, and filing requirements concerning reports and other procedural matters of federal and state agencies, including opinions of the Attorney General of the State of Indiana, and court decisions. Governmental units should file accurate reports required by federal and state agencies. Non-compliance may require corrective action. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

We requested that Karen Stanley, former Clerk-Treasurer, reimburse the Town of Kennard for the salary overpayments, in the amount of \$80,160. (See Summary of Charges, page 13)

Karen Stanley, former Clerk-Treasurer, deposited \$200 on September 21, 2015, into the Town depository account for the reimbursement of the salary overpayments. (See Summary of Charges, page 13)

ADDITIONAL EMPLOYER PAYROLL TAXES

As a result of the salary overpayments, the Town incurred additional employer payroll taxes in the amount of \$4,416.52 for the years 2012, 2013, 2014, and 2015.

The following schedule details the amount of the additional employer payroll taxes paid by the Town by year:

	<u>Employer Share of Taxes</u>
2012	\$ 105.19
2013	1,367.43
2014	1,683.00
2015	<u>1,260.90</u>
Total	<u>\$ 4,416.52</u>

Funds misappropriated, diverted or unaccounted for through malfeasance, misfeasance, or nonfeasance in office of any officer or employee may be the personal obligation of the responsible officer or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

We requested that Karen Stanley, former Clerk-Treasurer, reimburse the Town of Kennard for the additional employer payroll taxes in the amount of \$4,416.52. (See Summary of Charges, page 13)

PENALTIES AND INTEREST

The payment of penalties and interest were noted as follows by year:

CLERK-TREASURER
TOWN OF KENNARD
SPECIAL INVESTIGATION RESULTS AND COMMENTS
(Continued)

	<u>Federal Withholding and Social Security Tax</u>	<u>State and County Withholding</u>	<u>Sales Tax</u>	<u>Total Penalties and Interest</u>
2012	\$ -	\$ 124.30	\$ -	\$ 124.30
2013	393.45	38.30	-	431.75
2014	1,129.51	70.93	64.98	1,265.42
2015	-	23.99	-	23.99
Totals	<u>\$ 1,522.96</u>	<u>\$ 257.52</u>	<u>\$ 64.98</u>	<u>\$ 1,845.46</u>

Officials and employees have the duty to pay claims and remit taxes in a timely fashion. Failure to pay claims or remit taxes in a timely manner could be an indicator of serious financial problems which should be investigated by the governmental unit.

Additionally, officials and employees have a responsibility to perform duties in a manner which would not result in any unreasonable fees being assessed against the governmental unit.

Any penalties, interest or other charges paid by the governmental unit may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

Karen Stanley, former Clerk-Treasurer, was requested to reimburse the total amount of penalties and interest paid in the amount of \$1,845.46. (See Summary of Charges, page 13)

OVERPAYMENTS

Overpayments of withholding and sales taxes were made in 2012 and 2014 as follows:

	<u>Federal Withholding and Social Security Tax</u>	<u>State and County Withholding</u>	<u>Sales Tax</u>	<u>Total Overpayments</u>
2012	\$ 842.47	\$ 1,047.82	\$ -	\$ 1,890.29
2014	-	500.00	600.00	1,100.00
Totals	<u>\$ 842.47</u>	<u>\$ 1,547.82</u>	<u>\$ 600.00</u>	<u>\$ 2,990.29</u>

Officials and employees have the duty to pay claims and remit taxes in a timely fashion. Failure to pay claims or remit taxes in a timely manner could be an indicator of serious financial problems which should be investigated by the governmental unit.

Additionally, officials and employees have a responsibility to perform duties in a manner which would not result in any unreasonable fees being assessed against the governmental unit.

CLERK-TREASURER
TOWN OF KENNARD
SPECIAL INVESTIGATION RESULTS AND COMMENTS
(Continued)

Any penalties, interest or other charges paid by the governmental unit may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

Karen Stanley, former Clerk-Treasurer, was requested to reimburse the total amount of overpayments in the amount of \$2,990.29. (See Summary of Charges, page 13)

SPECIAL INVESTIGATION COSTS

The State of Indiana incurred additional costs in the investigation of the salary overpayments.

Audit costs incurred because of theft and shortage may be the personal obligation of the responsible official or employee. Audit costs or other costs incurred because of poor records, nonexistent records or other inadequate bookkeeping practices may be the personal obligation of the responsible official or employee of the governmental unit. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

We requested that Karen Stanley, former Clerk-Treasurer, reimburse the State of Indiana \$13,932.81 for special investigation costs. (See Summary of Charges, page 13)

INTERNAL CONTROL DEFICIENCIES

Accounting duties were not adequately segregated. The Clerk-Treasurer was the only office employee. The following is a description of some of the accounting activities, all of which Karen Stanley, former Clerk-Treasurer, performed, for which compensating controls or adequate oversight were not in place:

- Karen Stanley, former Clerk-Treasurer, had complete access to the accounting system allowing her to make financial entries and/or adjustments to the accounting records without any prior approval.
- Karen Stanley, former Clerk-Treasurer, had access to unused checks and was also authorized to prepare and sign checks.
- Karen Stanley, former Clerk-Treasurer, was responsible for preparing required reports and prescribed forms, including, but not limited to, the following:

Report of Names, Addresses, Duties and Compensation of Public Employees - Form 100-R

Employer's Quarterly Federal Tax Return - Form 941

Wage and Tax Statement - Form W-2

Transmittal of Wage and Tax Statements - Form W-3

Annual Withholding Tax Form WH-3

CLERK-TREASURER
TOWN OF KENNARD
SPECIAL INVESTIGATION RESULTS AND COMMENTS
(Continued)

Certification of Names and Addresses to County Treasurer

Annual Financial Report

- Karen Stanley, former Clerk-Treasurer, had access to all files and was responsible for maintaining the Town's financial documentation, including tracking and reconciling fund balances to depository balances.

Governmental units should have internal controls in effect which provide reasonable assurance regarding the reliability of financial information and records, effectiveness and efficiency of operations, proper execution of management's objectives, and compliance with laws and regulations. Among other things, segregation of duties, safeguarding controls over cash and all other assets and all forms of information processing are necessary for proper internal control. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

Segregation of duties is the concept of having different people do different tasks within the organization. It provides the foundation of good internal control by assuring that no one individual has the capability to perpetuate and conceal errors or irregularities in the normal course of their authorized duties. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

INVESTIGATION BY LAW ENFORCEMENT AGENCIES

An investigation into the salary overpayments has also been conducted by the Indiana State Police and the Federal Bureau of Investigation. This investigation was ongoing as of the date of this report.

BOND INFORMATION

The following is information regarding official bonds obtained by the Town:

<u>Period</u>	<u>Charges</u>
08-03-12 to 08-03-13	\$ 14,094.03
08-03-13 to 08-03-14	34,736.84
08-03-14 to 08-03-15	36,011.65
08-03-15 to 08-03-16	<u>4,569.75</u>
Total	<u>\$ 89,412.27</u>

CLERK-TREASURER
TOWN OF KENNARD
EXIT CONFERENCE

The contents of this report were discussed on January 27, 2016, with Sharon Elliot, Clerk-Treasurer; Jason Groce, President of the Town Council; Shannon Dickerson, Council member; and David Copenhaver, Town Attorney.

**IN RE: RESPONSE OF THE TOWN
OF KENNARD, INDIANA
TO THE AUDIT OF THE INDIANA
STATE BOARD OF ACCOUNTS**

SUBJECT MATTER OF AUDIT: FORMER CLERK-TREASURER, KAREN S. STANLEY

PERIOD OF AUDIT: 2012, 2013, 2014, AND 2015

The Town of Kennard would respond to the preliminary audit report reviewed by the Town Council at the exit conference held on Wednesday, January 27, 2016 in the Town Hall in Kennard, Indiana. Said response is as follows:

I. With regard to those allegations dealing with the former Clerk-Treasurer, Karen S. Stanley, the subject matter of which are salary overpayments, additional employer payroll taxes, penalties, interest and other charges, overpayments, and special investigation costs, the Town has no substantive response. It would be the position of the Town that repayment of any funds improperly taken by the former Clerk-Treasurer should be aggressively pursued by all parties. Whether through civil action, criminal restitution, or bond payments, the taxpayers and utility rate payers of the Town of Kennard should be made whole. The Town will cooperate and assist the Indiana State Board of Accounts, the Indiana Attorney General's office, local and federal prosecuting authorities, and local and federal law enforcement agencies in order to accomplish reimbursement. To date, the Town has provided information to those agencies and will continue to assist those agencies in their investigation, prosecution and collection endeavors.

II. With regard to the comments in the preliminary audit report regarding internal control deficiencies, the Town would point out that to the extent deficiencies existed in the years of the audit, they had existed long before this matter came to light. The Town practices have not been changed and corrective methods were not suggested by past auditors from the State Board of Accounts. In short, while the Town does not wish to suggest that it cannot do more to review its records, it would be incorrect to suggest that the Town's procedures and practices had not been audited on previous occasions by the State Board of Accounts. Further, on those prior audits, the Town was not made aware of any needed changes with regard to internal audit control deficiencies.

However, doing business as has been done for many years does not suggest that new controls should not be instituted. The Town will institute the internal control standards and procedures adopted by the Indiana State Board of Accounts and mandated by I.C. 5-11-1-27. As a result, the Town Council is seeking out ways to address the concerns raised by the State Board of Accounts. At its meeting of February 3, 2016, the Council adopted a resolution regarding erroneous or irregular variances, losses, shortages and thefts. In that resolution, it established a materiality threshold. A copy of that resolution is attached hereto and incorporated herein.

While the Council has always reviewed monthly claims ledgers, it will consider methods by which these ledgers might be reviewed in a more comprehensive and detailed manner. Further, it will select one of its members to meet regularly with the Clerk-Treasurer to review

financial matters, including but not limited to, the claims ledger, budget, and other monetary concerns.

However, all of these efforts must be viewed in light of the financial realities faced by a town of under 500 people. The Town cannot afford a full-time fiscal officer. Nor can it afford to hire a Deputy Clerk to segregate duties. The Town will explore methods within its budget to provide for such segregation. Further, the Town of Kennard is a member of the Indiana Association of Cities and Towns. As such, its elected officials will seek out the educational programs provided by that agency. In short, the Town will make certain that its fiscal personnel receive training as mandated by I.C. 5-11-1-27(g)(2). The elected officials of the Town of Kennard will make every attempt to institute procedures which will prevent an occurrence such as the one presented in this audit from re-occurring.

Respectfully submitted,

TOWN OF KENNARD, INDIANA

By: Sharon Elliott
Sharon Elliott, Clerk-Treasurer of the
Town of Kennard, Indiana

By: Jason A. Groce
Jason Groce, President of the Town Council
Of the Town of Kennard, Indiana

CLERK-TREASURER
TOWN OF KENNARD
SUMMARY OF CHARGES

	<u>Charges</u>	<u>Credits</u>	<u>Balance Due</u>
Karen Stanley, former Clerk-Treasurer:			
Salary Overpayments, pages 4 and 5	\$ 80,160.00	\$ 200.00	\$ 79,960.00
Additional Employer Payroll Taxes, page 5	4,416.52	-	4,416.52
Penalties and Interest, pages 5 and 6	1,845.46	-	1,845.46
Overpayments, pages 6 and 7	<u>2,990.29</u>	<u>-</u>	<u>2,990.29</u>
Totals	89,412.27	200.00	89,212.27
Special Investigation Costs, page 7	<u>13,932.81</u>	<u>-</u>	<u>13,932.81</u>
Totals	<u>\$ 103,345.08</u>	<u>\$ 200.00</u>	<u>\$ 103,145.08</u>

This report was forwarded to the Office of the Indiana Attorney General, the United States Attorney's Office, the Henry County Prosecutor, the Internal Revenue Service, and the Indiana Department of Revenue.

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AFFIDAVIT

STATE OF INDIANA)
Marion)
COUNTY)

I, David Bixler, Field Examiner, being duly sworn on my oath, state that the foregoing report based on the official records as described in our letter to the officials of the Town of Kennard, Henry County, Indiana, for the period from August 3, 2012 to October 28, 2015, is true and correct to the best of my knowledge and belief.

David Bixler
Field Examiner

Subscribed and sworn to before me this 16 day of February, 2016

Karen M. Williams
Notary Public

My Commission Expires: May 10, 2017

County of Residence: Marion

